

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

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| ANDREW KALLINKOS, | : | |
| Plaintiff | : | CIVIL ACTION NO. 3:17-0210 |
| v. | : | (MANNION, D.J.) |
| NANCY A. BERRYHILL,¹ | : | (MEHALCHICK, M.J.) |
| Commissioner of Social Security, | : | |
| Defendant | : | |

MEMORANDUM

Pending before the court is the February 23, 2018 report of Judge Karolyn Mehalchick, which recommends that the final decision of the Commissioner denying the plaintiff's claim for disability insurance benefits ("DIB") under Title II of the Social Security Act be affirmed and that the case be closed. (Doc. 21). Neither the Commissioner nor the plaintiff have filed any objections to Judge Mehalchick's report. The time within which objections to the report were due has expired.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see *also* [Univac Dental Co. v.](#)

¹On January 23, 2017, Nancy A. Berryhill became the Acting Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted as the defendant in this suit.

[Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 \(2010\)](#) (citing [Henderson v. Carlson, 812 F.2d 874, 878 \(3d Cir. 1987\)](#) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31.

Plaintiff alleged that he was disabled as of April 1, 2012, due to major depressive disorder, generalized anxiety disorder, chronic obstructive pulmonary disease, hypertension, gastroesophageal reflux disease, chronic Hepatitis C status/post treatment, genitofemoral/ilioinguinal neuritis, bilateral cataracts, mild leukocytosis, mild to moderate degenerative disc disease of the lumbar spine, cirrhosis of the liver, and mild mitral regurgitation. The ALJ found that plaintiff's impairments were severe but concluded that none of his impairments, individually or in combination, met or equaled a listed impairment. The ALJ also found that plaintiff retained the residual functional capacity to perform medium work with restrictions and then determined that there were jobs available to plaintiff in the national economy, namely, janitor, laundry worker, and hand packager. Thus, the ALJ denied plaintiff's application for disability benefits.

The court has reviewed all of the reasons presented by Judge Mehalchick for recommending that the plaintiff's appeal of the

Commissioner's decision denying his claim for DIB benefits, (Doc. 1), be denied. Because the court agrees with the sound reasoning that led Judge Mehalchick to the conclusions in her report, including her conclusion that substantial evidence supported the Commissioner's finding that plaintiff has the residual functional capacity to perform medium work with limitations, and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: March 22, 2018

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